IN THE HIGH COURT OF JUDICATURE AT BOMBAY

APPELLATE CIVIL JURISDICTION

LETTERS PATENT APPEAL NO.68 OF 2000

Shri Ramdas G. Patil .....APPELLANT

Versus

The General Manager, BEST Undertaking..Respondent

Dr. R.S. Kulkarni, for the Appellant.
Mr. S.K. Talsania with Mr. R.N. Vora i/b. Crawford Bayley & Co., for the Respondent

CORAM: F.I.REBELLO & ANOOP V. MOHTA, JJ.

DATE: 19th August, 2004.

P.C.

1. It is not necessary to advert to various facts for the view to be taken. By order of 27th November, 1998 in Appeal before the Industrial Court the Appeal was allowed and the matter was remanded to the Labour Court for deciding the application in terms of the observations made in the order. The workman aggrieved preferred a Writ Petition in this Court being Writ Petition No.95 of 1999. On behalf of the respondents it was urged that such a petition ought not to be entertained considering that it was only an order of remand. On behalf of the appellant workman it was, however, contended by the learned Counsel that the learned Judge should decide the matter on merits. It is in these circumstances that the learned Single Judge proceeded to

exercise jurisdiction by reappreciating the evidence in the course of the petition before him under Articles 226 and 227 of the Constitution of India.

2. We have heard learned Counsel. We are of the view that such an exercise could not have been done in the exercise of the extra ordinary jurisdiction under Articles 226 and 227 of the Constitution of India. The Industrial Court had remanded the matter back to the Labour Court for deciding the matter in terms of the order. Considering the above the impugned order dated 22nd December, 1999 is set aside. The matter is remanded back to the Labour Court in terms of the order of the Industrial Court to dispose of the matter. Parties to appear before the Labour Court on 10th September, 2004 at 11.00 a.m. for further directions.

Considering that it is an old matter the Labour Court to dispose of the matter within three months thereafter. It is made clear that the Labour Court will dispose of the matter uninfluenced by any findings or observations made in the earlier order.

Appeal stands disposed of accordingly.

(F.I. REBELLO, J.)

(ANOOP V. MOHTA, J.)